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	First Named Inventor	ATLURI
	Art Unit	3611
	Examiner Name	Silbermann, Joanne
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

App. No. : 10/648,069 Confirmation No.: 3378

Applicant : Neelima Atluri

Filed : 08/26/2003

TC/A.U. : 3611

Examiner : Silbermann, Joanne

Docket No. : NAI001

Customer No. : 28848

For: "Illustrative Drug Card"

REPLY BRIEF

Hon. Commissioner for Patents
Washington, D.C. 20231

Sir:

This is a Reply Brief in response to the Examiner's Answer dated November 21, 2006, for the above-identified patent application. The Appellant respectfully requests that the Board consider the Appellant's Appeal Brief on its merits, as the Examiner has misinterpreted the prior art.

Additionally, the Appellant would like to add the following with respect to the claims and the Examiner's Answer.

Claim 1

Claim 1 includes the limitations of "...a symbol-aided instruction on how to administer a medication listed in the list of medications." The Examiner stated that Mayfield states that medical charts are difficult to read (column 1, lines 49-51) and that a system using symbols and color is easier to use (column 3, lines 37-39 and column 4, line 23).

Neither column 3, lines 37-39, nor column 4, line 23 teach a “symbol-aided instruction on how to administer a medication...”

Column 3, lines 37-39 states, “An advantage to the present invention is that it is sensitive to the elderly or chronically ill patient’s difficulties with eyesight, coordination, and memory loss.” As clearly evident, the aforementioned passage does not teach a “symbol-aided instruction on how to administer a medication...” However, the Examiner may have intended to indicate column 3, lines 34-36, which reads, “another objection of the present invention is the provision of tactile and visual identification of multiple medications.” Even if this is what the Examiner intended, it still fails to teach each limitation of Claim 1 (i.e., “symbol-aided instruction on how to administer a medication”).

Further, the Examiner pointed to Column 4, line 23, which states, “...with a simple, changeable system suited to each patient’s...” The completed sentence reads, “The present invention helps to establish and maintain individual daily dosages with a simple, changeable system suited to each patient’s particular needs.” The Appellant fails to understand how the aforementioned reference teaches “a symbol-aided instruction on how to administer a medication,” particularly where the symbol is indicative of how to administer the medication.

For the reasons set forth in the Appeal Brief and as outlined above, the Appellant disagrees with the Examiner’s assertions and respectfully requests timely allowance of Claim 1.

Claim 2

Regarding Claim 2, the Examiner maintained the rejection on the premises that some wallets are “very large.”

The Coe reference teaches a binder system that “carries a pad of medicine schedules and a pad of medicine display cards.” (See the Coe patent, Abstract). As

clearly depicted in FIG. 1, the width of the invention according the Coe reference is not minimal (as it includes two spacer panels 15 and 17 that equal the thickness of two pads 28 and 32, each containing multiple cards stacked on top of each other and bound through a ring or spiral binding). When folded (as shown in FIG. 4 of the Coe reference), the folder is nowhere near a wallet-sized booklet that is substantially planar. It is readily apparent to one skilled in the art as to what a wallet-size is. Thus, one skilled in the art would clearly not interpret the illustration depicted in FIG. 4 to be a wallet-sized booklet, and most certainly would not consider it to be substantially planar.

For the reasons set forth in the Appeal Brief and as outlined above, the Appellant disagrees with the Examiner's assertions and respectfully requests timely allowance of Claim 2.

Claims 6, 7, 15, 16, 24, and 25

The Examiner contends that Mayfield shows symbols used to designate times to take medication and that some of the symbols are stars.

However, nowhere in Mayfield or any other related art is there any reference to a symbol-aided instruction that represents the time of the day. According to Mayfield, symbols in conjunction with a key or legend may be used to indicate various times of the day, however, they are not used such that the symbol itself represents the time of the day.

Additionally, while Mayfield may illustrate a star, it is merely used as an arbitrary shape to be applied with a legend or key (See FIG. 1, item 14). Thus, the star in Mayfield does not represent the time of a day. Rather, the star in Mayfield is an arbitrary shape that represents a particular placeholder in a legend. In this case, the star in Mayfield is placed next to "Antibiotic" to coordinate taking an antibiotic at certain times throughout a day. Thus, the symbol does not represent the time of the day, but rather represents an association between a particular medicine and a time slot in a legend or key.

Alternatively, and as claimed by the present invention, the symbol represents the time of the day, without the use of a legend or key. Further, the symbol representing the time of day includes an item selected from a group consisting of a sun, moon, and stars. In this aspect, the symbol itself represents a particular time of the day as understood by one skilled in the art.

For the reasons set forth in the Appeal Brief and as outlined above, the Appellant disagrees with the Examiner's assertions and respectfully requests timely allowance of Claims 6, 7, 15, 16, 24, and 25.

Claims 8, 9, 17, 18, 26, and 27

The Examiner contends that Claims 8, 9, 17, 18, 26, and 27 have been rejected under Coe in view of Mayfield.

Claims 8, 17, and 26 relate to a symbol-aided instruction on how to administer a medication, where the symbol represents what to administer with the medication. Nowhere in the prior art are any references to a symbol that indicates what to administer with the medication. The Examiner contends that it would be obvious to utilize symbols to convey such information. However, according to *In re Vaeck*, the Examiner must set forth an argument that provides (1) one or more references (2) that were available to the inventor and (3) that teach (4) a suggestion to combine or modify the references, (5) the combination or modification of which would appear to be sufficient to have made the claimed invention obvious to one of ordinary skill in the art. Importantly, the teaching or suggestion to make the claimed combination must be found in the prior art, not in Appellant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). The Examiner has failed to set forth such an argument as the prior art does not teach a suggestion to combine or modify the references.

Additionally, Claims 9, 18, and 27 are related to the symbol being a depiction of an item selected from a group consisting of a liquid and food. Nowhere in the prior art are any references to symbols such as liquid and/or food. However, the Examiner

contends that the particular images shown on the symbol, such as liquid or food, is a matter of design choice. The particular images shown on the symbol provide a new and useful relationship with the card as they direct the user as to exactly what to take with a particular medication. Such knowledge is clearly useful.

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Further, it is not merely a design choice as each image conveys a unique set of instructions. A design choice, in of itself, does not convey any instructions and is merely used for aesthetic benefits. In this case, the actual symbol conveys instructions and is therefore useful. Further, nothing in the prior art identified using particular symbols to
10 instruct a user on what to take with a particular medication. Therefore, the prior art does not teach or suggest such a modification or combination.

For the reasons set forth in the Appeal Brief and as outlined above, the Appellant disagrees with the Examiner's assertions and respectfully requests timely allowance of
15 Claims 8, 9, 17, 18, 26, and 27.

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CONCLUSION

For the reasons advanced above, the Appellant respectfully contends that each claim is patentable. Therefore, withdrawal of all rejections is courteously solicited.

To the extent necessary, a petition for an extension of time under 37 CFR 1.136 is hereby made. Please charge any shortage of fees due in connection with the filing of this paper, including extension of time fees, to deposit account no. 50-2691 and please credit any excess fees to such deposit account.

Respectfully submitted,

01/22/07
Date


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